

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES OF EMPIRE STATE
CARPENTERS ANNUITY,
APPRENTICESHIP, LABOR MANAGEMENT
COOPERATION, PENSION AND WELFARE
FUNDS,

ADOPTION ORDER
14-cv-325 (ADS)(GRB)

Plaintiffs,

-against-

ARBOR INTERIORS, INC.,

Defendant.

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APPEARANCES:

Virginia & Ambinder, LLP

Attorneys for the Plaintiffs

111 Broadway, Suite 1403

New York, NY 10006

By: Richard B. Epstein, Esq., Of Counsel

NO APPEARANCE:

The Defendant

SPATT, District Judge.

On January 15, 2014, the Plaintiffs Trustees of the Empire State Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds (the “Plaintiffs”) filed this action against the Defendant Arbor Interiors, Inc. (the “Defendant”) to confirm and enforce an arbitration award under section 301 of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 185, section 502(e)(1) of the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1132(e)(1), and the Federal Arbitration Act (“FAA”), 9 U.S.C. § 9.

On March 19, 2014, the Clerk of the Court noted the default of the Defendant.

On May 7, 2014, the Plaintiffs moved for a default judgment.

On May 13, 2014, the Court referred this matter to United States Magistrate Judge Gary R. Brown for a recommendation as to whether the motion for a default judgment should be granted, and if so, (1) whether damages should be awarded, including reasonable attorney's fees and costs, and (2) whether any other relief should be granted.

On February 27, 2015, Judge Brown issued a Report recommending that (1) the motion for a default judgment be construed as an unopposed motion for summary judgment consistent with Second Circuit precedent; (2) the arbitration award be confirmed; (2) the Plaintiffs be awarded \$22,726.11 plus interest from the date of the arbitration through the date of judgment at the rate of 0.75% per month, and \$980.00 in attorneys' fees and costs.

More than fourteen days have elapsed since service of the Report and Recommendation on the Defendant, which has failed to file an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the February 27, 2015 Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. See Trustees of Empire State Carpenters Annuity, Apprenticeship, Labor-Mgmt. Cooperation, Pension & Welfare Funds v. C. Downing Enterprises LLC, No. 14-CV-323 (ADS)(AKT), 2015 WL 1042481, at *1 (E.D.N.Y. Mar. 10, 2015)(reviewing Report and Recommendation without objections for clear error).

Accordingly, the Court adopts Judge Brown's February 27, 2015 Report and Recommendation in its entirety. The Court (1) treats the motion for a default judgment as an unopposed motion for summary judgment; (2) confirms the arbitration award; and (2) awards the Plaintiffs \$22,726.11 plus interest from the date of the arbitration through the date of judgment at the rate of 0.75% per month, and \$980.00 in attorneys' fees and costs. The Clerk of the Court is respectfully directed to enter judgment consistent with this Adoption Order and to close the case.

SO ORDERED.

Dated: Central Islip, New York
March 18, 2015

Arthur D. Spatt

ARTHUR D. SPATT
United States District Judge